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and others similarly situated

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOSE ELIAS MORALES AGUIRRE,  
on behalf of himself and others  
similarly situated,

Plaintiff,

vs.

AMERICAN HONDA MOTOR CO.,  
INC.,

Defendant.

Case No.

**CLASS ACTION**

**COMPLAINT FOR:**

**VIOLATIONS OF CALIFORNIA  
BUSINESS AND PROFESSIONS  
CODE SECTION 17200, *et seq.***

**VIOLATION OF CALIFORNIA  
BUSINESS AND PROFESSIONS  
CODE SECTION 1750, *et seq.***

**DEMAND FOR JURY TRIAL**

1 Plaintiff Jose Elias Morales Aguirre (“Plaintiff”), individually and on behalf  
2 of all other California citizens similarly situated, brings this action against  
3 Defendant American Honda Motor Corporation, Inc., (“Defendant” or  
4 “HONDA”), upon information and belief, except as to his own actions, the  
5 investigation of his counsel, and the facts that are a matter of public record, and  
6 alleges as follows:

### 7 INTRODUCTION

8 1. This consumer class action lawsuit arises out of HONDA’s failure to  
9 provide a compliant California emissions warranty relating to vehicles distributed  
10 by HONDA for which HONDA has promised to provide a 15-year or 150,000-  
11 mile California emissions warranty as a condition of HONDA receiving emissions  
12 credits from the California Air Resources Board (“Class Vehicles”). Pursuant to  
13 California Code of Regulations (“CCR”) Title 13, Section 1900, et seq.,  
14 (“California Emissions Warranty”), in order for 15-year or 150,000-mile  
15 California Emissions Warranty to be complaint, HONDA is obligated to provide  
16 15-year or 150,000-mile warranty coverage for all emissions-related parts, also  
17 referred to as warranted parts, as defined herein. HONDA’s 15-year or 150,000  
18 miles warranty is not compliant because HONDA has wrongfully failed to identify  
19 the engine head gasket as an emissions-related part.

20 2. Pursuant to the California Emissions Warranty, and as verified by the  
21 California Air Resources Board (“CARB”), defects which increase regulated  
22 emissions in Class Vehicles are emissions-related parts and shall be covered under  
23 the California Emissions Warranty.

24 3. Pursuant to the California Emissions Warranty, and as verified by  
25 CARB, defects which cause illumination of the OBD Malfunction Indicator Light  
26 (MIL) are emissions-related parts and shall be covered under the California  
27 Emissions Warranty, even if the primary function of the component whose  
28 malfunction has caused the illumination of the MIL is not emission control. (Cal.

1 Code Regs., tit. 13, § 2037, subd. (b)(2).) The MIL is a light located on the  
2 driver's side instrument panel that, when illuminated, is amber in color and  
3 displays "Check Engine/Powertrain," "Service Engine/Powertrain Soon," or the  
4 International Standards Organization (ISO) engine symbol. The MIL illuminates  
5 to notify the driver of detected malfunctions of OBD-monitored emissions systems  
6 on the vehicle. (Cal. Code Regs., tit. 13, § 1968.2, subds. (a), (d)(2.1.1) & (2.2).)"  
7 Pursuant to Title 13, Section 1968.2, the MIL is not supposed to illuminate unless  
8 the vehicle's onboard diagnostic system ("OBDII" or "OBD2") has detected a  
9 defect which increases regulated emissions or has detected a defect which has  
10 caused the onboard diagnostic system to malfunction.

11 4. Pursuant to the California Emissions Warranty, and as verified by  
12 CARB, defects which cause a vehicle to fail a California smog check are  
13 emissions-related parts and shall be covered under the California Emissions  
14 Warranty. Defects which cause illumination of the MIL will result in a vehicle  
15 failing a California smog check.

16 5. Head gasket defects in Class Vehicles increase regulated emissions,  
17 cause the MIL to illuminate, and if a vehicle with a defective head gasket is  
18 subjected to a California smog check, the vehicle will fail a California smog  
19 check. Class Vehicles have a 15-year or 150,000 mile California Emissions  
20 Warranty. Therefore, the head gaskets in Class Vehicles should be covered for 15-  
21 year or 150,000 miles.

22 6. As a result of HONDA not providing proper warranty coverage for  
23 head gaskets in Class Vehicles, Plaintiff and members of the Class and Subclasses  
24 have and are continuing to pay out of pocket for repairs that should be covered  
25 under the California Emissions Warranty. Further, as a result of HONDA not  
26 providing proper warranty coverage for head gaskets in Class Vehicles, Plaintiff  
27 and the members of the Class and Subclasses have and are continuing to suffer  
28 damage as a result of purchasing or leasing Class Vehicles with a deficient

1 warranty which was worth less than the warranty they were legally entitled to at  
2 the time of purchase or lease.

3 7. HONDA has failed to extend California Emissions Warranty  
4 coverage to head gaskets in Class Vehicles as required by the CCR. As explained  
5 herein, this is an unlawful and unfair business practice and violates the Consumer  
6 Legal Remedies Act.

### 7 **BACKGROUND**

8 8. For decades, HONDA has been in the business of distributing  
9 HONDA vehicles to the State of California, with the intent to sell HONDA  
10 vehicles to consumers in California. As such, HONDA vehicles have been subject  
11 to state and federal regulations regarding both emissions standards and regarding  
12 HONDA's obligations to provide consumers with warranties relating to  
13 emissions-related parts.

14 9. HONDA has received emissions credits from CARB relating to  
15 HONDA's distribution of Class Vehicles in the State of California, and contingent  
16 upon HONDA's promise to provide 15-year 150,000-mile California Emissions  
17 Warranty coverage to owners and lessees of Class Vehicles. Pursuant to the  
18 California Emissions Warranty. The 15-year warranty period is reduced to 10  
19 years or 150,000 mile only for "a zero-emission energy storage device used for  
20 traction power (such as a battery, ultracapacitor, or other electric storage device)."  
21 Pursuant to the California Emissions Warranty, manufacturers may not deny a  
22 warranty claim that would otherwise be covered under the California Emissions  
23 Warranty unless the manufacturer can provide both that (a) The vehicle or engine  
24 has been abused, neglected, improperly maintained, or has unapproved  
25 modifications, and (b) that such abuse, neglect, improper maintenance, or  
26 unapproved modification was the direct cause of the need for the repair or  
27 replacement of the part (as stated in CCR 2037(i) and 2039).

1           10. HONDA fails to comply with these statutory requirements by failing  
2 to provide 15-years or 150,000-mile California Emissions Warranty coverage to  
3 Class Vehicles for head gasket defects which cause illumination of the MIL,  
4 which cause an increase in regulated emissions, and/or which would cause a Class  
5 Vehicle to fail a smog check. Instead, HONDA has taken the stated position that  
6 engine head gaskets are not a component covered by the California Emissions  
7 Warranty, but instead only covered by the HONDA powertrain warranty.  
8 Furthermore, it is Plaintiff's information and belief that HONDA neglects to  
9 provide California Emissions Warranty coverage for numerous other emissions-  
10 related parts.

11           11. HONDA is engaged in a nefarious scheme to limit its warranty  
12 exposure under the California Emissions Warranty requirements in violation of  
13 California law by unilaterally defining and wrongfully limiting the parts that  
14 should properly be identified as parts covered by the California Emissions  
15 Warranty and covered for 15-years or 150,000 mile under the CCR.

16           12. HONDA's alleged efforts to comply with the California Emissions  
17 Warranty for the Class Vehicles identifies only a handful of emissions parts that  
18 HONDA contends qualify for the California Emissions Warranty's 15-year or  
19 150,000-mile warranty coverage. That list, generated by HONDA, for its own  
20 financial benefit to save warranty costs, is woefully inadequate and incomplete  
21 and fails to identify, or provide extended warranty coverage for, *all* of the  
22 emissions-related parts that, in fact, qualify for 15-year or 150,000-mile coverage  
23 under the California Emissions Warranty.

24           13. By narrowly self-defining the parts that are required to be covered  
25 under the California Emissions Warranty, HONDA is able to reduce the amount of  
26 money that it spends on warranty-related repairs, knowing that most if not all  
27 dealerships or consumers will not investigate or understand what components  
28

1 should actually and correctly be covered under the California Emissions Warranty  
2 as required by the California Code of Regulations.

3 14. As a result of HONDA's conduct, Plaintiff and members of the Class  
4 have paid and are continuing to pay out of pocket for head gasket repairs that  
5 should be covered under the California Emissions Warranty. As a further result of  
6 HONDA's conduct, Plaintiff and members of the Class purchased or leased  
7 vehicles with warranties which were less valuable than the warranties they were  
8 legally entitled to receive.

9 15. Plaintiff's theory does not depend on the premise that CARB was  
10 deceived by the information that HONDA submitted, or that CARB ever  
11 expressed a concern about HONDA's classification of components as being  
12 covered by the California Emissions Warranty. Plaintiff is not accusing CARB of  
13 mismanagement or blaming CARB for HONDA's inaccuracy. HONDA alone is  
14 responsible for selecting and identifying to CARB the parts that HONDA has  
15 unilaterally identified as being covered by the California Emissions Warranty, as  
16 part of its application for vehicle certification. That list may be correct as far as  
17 CARB knows. But, as Plaintiff alleges, the list of parts HONDA submitted to  
18 CARB was incomplete, as evidenced by Plaintiff's own experience.

### 19 20 **JURISDICTION AND VENUE**

21 16. This Court has original jurisdiction over the subject matter of this  
22 action pursuant to 28 U.S.C. § 1332(d)(2)(A) because: (i) members of the Class  
23 are citizens of a state different from that of HONDA; and (ii) aggregating the  
24 claims of individual Class members, the total matter in controversy exceeds the  
25 sum or value of \$5,000,000, exclusive of interests and costs. Further, 28 U.S.C. §  
26 1332(d)(5) does not apply because (i) HONDA is not a state, state official, or  
27 other governmental entity against whom the Court may be foreclosed from  
28

1 ordering relief, and (ii) the number of members of the Class in the aggregate  
2 exceeds 100.

3 17. This Court has personal jurisdiction over HONDA because HONDA  
4 has sufficient minimum contacts with California, having intentionally availed  
5 itself of the California market so as to render the exercise of jurisdiction over it by  
6 this District Court consistent with traditional notions of fair play and substantial  
7 justice.

8 18. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because  
9 HONDA conducts business within the State of California, has failed to designate  
10 with the office of the California Secretary of State a principal place of business in  
11 California, and a substantial part of the events giving rise to the claims alleged  
12 herein occurred in this District.

### 13 14 **DIVISIONAL ASSIGNMENT**

15 19. Pursuant to Civil L.R. 3-2(c), the action arose in Alameda County;  
16 thus assignment to the San Francisco Division or Oakland Division is appropriate.

### 17 18 **PARTIES**

19 20. Plaintiff Jose Elias Morales Aguirre (“Plaintiff”) is, and at all times relevant  
20 hereto has been, an individual. At all times relevant, Plaintiff resided in Hollister,  
21 California, in San Benito County. The repairs that give rise to this action were  
22 performed in Alameda County to Plaintiff’s 2020 Honda Accord Hybrid, VIN  
23 1HGCV3F96LA000123 (“Plaintiff Vehicle” or “Plaintiff’s Vehicle”).

24 21. Defendant HONDA was and is, upon information and belief, a California  
25 corporation, headquartered in Los Angeles County, at 1919 Torrance Boulevard,  
26 Torrance, California 90501. HONDA sells Class Vehicles in the State of  
27 California.

28 ///



1           22. Plaintiff reserves the right to expand, limit, modify, or amend these  
2 allegations at any time, based upon, *inter alia*, changing circumstances and/or new  
3 facts obtained during discovery.

#### 4                                   **SUBSTANTIVE ALLEGATIONS**

5           23. At all times herein relevant, Plaintiff purchased and was the owner of  
6 Plaintiff's Vehicle. Plaintiff's Vehicle was purchased by Plaintiff in the state of  
7 California and registered in the state of California.

8           24. Plaintiff had been experiencing problems with Plaintiff's Vehicle. As  
9 a result, on June 7, 2022, at 127,530 miles, Plaintiff took Plaintiff's Vehicle to  
10 Dublin Honda, located at 6300 Dublin Boulevard, Dublin, California 94568 ("The  
11 Dealership"). The Dealership noted that the MIL was illuminated, that Plaintiff's  
12 Vehicle would not accelerate past 40 miles per hour, That Plaintiff's Vehicle had a  
13 bad engine vibration and that the traction light was illuminated. The Dealership  
14 found fault codes P0300, P0302 and P0304, all OBDII emissions-related fault  
15 codes. The Dealership added coolant to Plaintiff's Vehicle and cleared the fault  
16 codes. The Dealership determined that Plaintiff's Vehicle may have an internal  
17 coolant leak. Plaintiff was charged \$210.00. This repair should have been covered  
18 under the California Emissions Warranty because the defects which gave rise to  
19 the diagnosis and repair were defects which increased regulated emissions, caused  
20 the illumination of the MIL and would have resulted in Plaintiff's Vehicle failing  
21 a California smog test.

22           25. Plaintiff's Vehicle continued to malfunction. Plaintiff took Plaintiff's  
23 Vehicle back to The Dealership two days later. The Dealership noted that the MIL  
24 was again illuminated, and that Plaintiff's Vehicle was running rough. The  
25 Dealership found fault code P0302, an OBDII emissions-related fault code. The  
26 Dealership found that the engine had a blown head gasket which was causing  
27 coolant to leak into the combustion chamber of cylinder 2. This defect caused an  
28 increase in regulated emissions, caused a MIL to illuminate, and would have



1 resulted in Plaintiff's Vehicle failing a California smog test. The repair should  
2 have been covered under the California Emissions Warranty, however HONDA  
3 refused to cover the repair under the California Emissions Warranty. As a result,  
4 Plaintiff paid \$2,817.64 to repair the blown head gasket of Plaintiff's Vehicle.

5 26. California Code of Regulations Section 1900, *et seq.*, establishes the  
6 minimum California Emissions Warranty coverage that HONDA is obligated to  
7 provide for the Class Vehicles. Plaintiff's Vehicle qualifies as a Class Vehicle,  
8 because HONDA received emissions credits for distributing Plaintiff's Vehicle.

9 27. Pursuant to California Code of Regulations Section 2035, with regard  
10 to 1990 and subsequent model year vehicles, a "warranted part" is defined as "any  
11 part installed on a motor vehicle or motor vehicle engine by the vehicle or engine  
12 manufacturer, or installed in a warranty repair, which affects any regulated  
13 emission from a motor vehicle or engine which is subject to California emission  
14 standards."

15 28. Furthermore, California Code of Regulations Section 2037(b) states,  
16 in relevant part: "The manufacturer of each motor vehicle or motor vehicle engine  
17 shall warrant to the ultimate purchaser and each subsequent purchaser that the  
18 vehicle or engine is:

- 19 (1) Designed, built, and equipped so as to conform with all  
20 applicable regulations adopted by the Air Resources Board  
21 pursuant to its authority in chapters 1 and 2, part 5, division 26  
22 of the Health and Safety Code; and  
23 (2) Free from defects in materials and workmanship which cause  
24 the failure of a warranted part to be identical in all material  
25 respects to the part as described in the vehicle or engine  
26 manufacturer's application for certification, including any  
27 defect in materials or workmanship which would cause the  
28 vehicle's on-board diagnostic malfunction indicator light to

illuminate, for a period of three years or 50,000 miles,  
whichever first occurs; and

- (3) Free from defects in materials and workmanship which cause the failure of a warranted part described in section (c) below for seven years or 70,000 miles, whichever first occurs.”

29. Furthermore, California Code of Regulations Section 2038 states

- (a) Applicability. This section shall apply to 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles, and motor vehicle engines used in such vehicles required to be inspected under any California statutorily authorized motor vehicle emissions inspection and maintenance program. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a “demonstrator” or “company” car prior to delivery, on the date it is first placed in service.

- (b) General Emissions Warranty Coverage. The manufacturer of each passenger car, light-duty truck, and medium-duty vehicle shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine:

- (1) Is designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and
- (2) Will, for a period of three years or 50,000 miles, whichever first occurs, pass an inspection

1 established under section 44012 of the Health and  
2 Safety Code (“inspection”).

3 30. With regard to the Class Vehicles, the California Code of Regulations  
4 extends the performance and defects warranty period set forth in subdivision  
5 2037(b)(2) and 2038(b)(2) to 15-years or 150,000 miles, whichever occurs first,  
6 except that the time period is to be 10 years for a zero-emission energy storage  
7 device used for traction power (such as a battery, ultracapacitor, or other electric  
8 storage device). Section 1962.1(D) states, in relevant part: “(D) *Extended*  
9 *Warranty*. Extend the performance and defects warranty period set forth in  
10 subdivision 2037(b)(2) and 2038(b)(2) to 15-years or 150,000 mile, whichever  
11 occurs first except that the time period is to be 10 years for a zero-emission energy  
12 storage device used for traction power (such as a battery, ultracapacitor, or other  
13 electric storage device).”

14 31. In short, the California Code of Regulations Section 1900, *et seq.*,  
15 requires that, for Class Vehicles, all defects that would cause the vehicle’s on-  
16 board diagnostic malfunction indicator light to illuminate [as defined in the  
17 California Code of Regulations section 2037(b)], that would increase the vehicle’s  
18 emissions, or that would result in the vehicle not being able to pass a California  
19 smog check are warranted for *15-years or 150,000 mile*, whichever occurs first  
20 (italics added). The 15-year warranty period is reduced to 10 years or 150,000  
21 mile only for batteries or zero-emission energy storage devices.

22 32. Under the California Code of Regulations, it is clear that this repair to  
23 Plaintiff’s vehicle should have been covered for 15-years or 150,000 miles. This is  
24 because the defect increased regulated emissions, illuminated the MIL, and would  
25 have caused Plaintiff’s vehicle to fail a smog test.

26 33. The defects relating to the head gasket of Plaintiff’s Vehicle caused  
27 fault codes which indicated that Plaintiff’s Vehicle was misfiring. Misfiring  
28 increases regulated emissions. Furthermore, Plaintiff’s Vehicle was burning

1 coolant, which results in the improper mixture and combustion of gasoline and air  
2 in the combustion chamber, which increases regulated emissions. Thus, the  
3 defective condition of the Plaintiff Vehicle does increase regulated emissions.

4 34. Furthermore, the defective head gasket caused an illumination of the  
5 MIL and would cause the Plaintiff vehicle to fail a California smog check.

6 35. When a part that is, or should be, covered under the California  
7 Emissions Warranty fails as described herein, it also fails to perform as described  
8 in the vehicle's application for certification under section 2037(b)(2), as further  
9 described below.

10 36. HONDA has acted as alleged herein in an effort to reduce the amount  
11 of money that it spends on warranty-related repairs, knowing that most if not all  
12 dealerships or consumers will not investigate or understand what components  
13 should actually be covered under the California Emissions Warranty. HONDA's  
14 conduct is part of a systematic effort by HONDA to avoid complying with  
15 California law. If HONDA complied with the terms of California law by properly  
16 identifying all parts that are covered under the California Emissions Warranty,  
17 then HONDA dealerships would properly provide warranty coverage for covered  
18 all parts, and consumers would not have to pay out of their own pocket for said  
19 repairs.

20 37. Furthermore, as a result of HONDA's intentional failure to cover  
21 head gaskets in Class Vehicles for the duration of the California Emissions  
22 Warranty's period, Plaintiff and the Class members were damaged at the time they  
23 purchased or leased a Class Vehicle. Specifically, when Plaintiff and the Class  
24 members purchased or leased a Class Vehicle, they received a vehicle with a less  
25 valuable warranty than the warranty they were entitled to because of the truncated  
26 head gaskets warranty.

27 38. After Plaintiff paid for the repairs to Plaintiff's Vehicle, Plaintiff  
28 retained counsel. Plaintiff's counsel sent HONDA a letter pursuant to the

1 Consumer Legal Remedies Act. The letter stated that HONDA should have  
2 covered the defective head gasket of Plaintiff's Vehicle under the California  
3 Emissions Warranty because the head gasket is an emissions-related part. In  
4 response, on July 15, 2022, HONDA wrote a letter to Plaintiff's counsel, stating,  
5 *"Based upon the current information available, we determined and confirmed that*  
6 *the head gasket is not a component that is covered by the Emissions Warranty.*  
7 *This component is covered by the Powertrain Warranty, which at the time of the*  
8 *repair, was already expired by 67,000 miles. **As a result, we are unable to honor***  
9 ***your client's request for reimbursement.**"*

10 39. Honda's response of July 15, 2022 made it very clear that HONDA  
11 had factually researched the issue and that HONDA does not treat the head gasket  
12 as an emissions-related part. Thus, HONDA's refusal to cover the head gasket  
13 repair was the result of HONDA's contention that the applicable warranty, the  
14 Powertrain Warranty, had expired.

15 40. HONDA's conduct violates California's unfair business practices  
16 statute, California Business and Professions Code Sections 17200 *et seq.* (the  
17 "UCL").

18 41. HONDA's conduct violates California's Consumer Legal Remedies  
19 Act, California Civil Code Sections 1750, *et seq.* ("CLRA").

20 42. Plaintiff and other Class members have suffered damage as a result of  
21 HONDA's wrongful, unfair, and unlawful conduct.

22 43. Plaintiff's action seeks injunctive relief and declaratory relief,  
23 declaring that HONDA's current and past practices as alleged herein do not  
24 comply with the CCRs and with the California Emissions Warranty laws,  
25 compelling HONDA to properly and fully identify that head gaskets in Class  
26 Vehicles should be covered by the California Emissions Warranty, compelling  
27 HONDA to identify the correct warranty period for head gaskets, and compelling  
28 HONDA to provide warranty coverage for head gaskets pursuant to the California

1 Emissions Warranty. The recovery of out-of-pocket expenses is restitution, not  
2 damages, and is ancillary to Plaintiff's primary goal of obtaining declaratory relief  
3 and/or requiring Defendant to properly and fully comply with the California  
4 Emissions Warranty as described herein.

5 44. Many Class members still own Class Vehicles and in the future will  
6 need to repair or replace the head gaskets in their vehicle while the vehicles are  
7 still within the 15-year and 150,000-mile California Emissions Warranty period.  
8 At this time, with regard to the Class Vehicles, HONDA is refusing to provide  
9 California Emissions Warranty coverage for head gaskets.

#### 10 **CARB DECLARATON**

11 45. CARB has provided a Declaration from Allen Lyons, who, at the  
12 time the Declaration was made, was the Chief of the Emissions Certification and  
13 Compliance Division of CARB regarding the California Emissions Warranty. The  
14 Declaration (hereinafter, the "CARB Declaration") was made "for the sole  
15 purpose of educating the Courts about CARB's interpretation and implementation  
16 of California's warranty requirements." The CARB Declaration sets forth CARB's  
17 interpretation of certain of the foregoing CCR provisions, including how to define  
18 a "warranted part" for purposes of the California Emissions Warranty.

19 46. The CARB Declaration states, in relevant part, that "warranted parts"  
20 under the California Emissions Warranty "include any components that can or are  
21 required to illuminate the OBD Malfunction Indicator Light (MIL) in the event of  
22 a malfunction, even if the primary function of the component is not emission  
23 control, within the warranty period. (Cal. Code Regs., tit. 13, § 2037, subd.  
24 (b)(2).) The MIL is a light located on the driver's side instrument panel that, when  
25 illuminated, is amber in color and displays "Check Engine/Powertrain," "Service  
26 Engine/Powertrain Soon," or the International Standards Organization (ISO)  
27 engine symbol; the MIL illuminates to notify the driver of detected malfunctions  
28

1 of OBD-monitored emissions systems on the vehicle. (Cal. Code Regs., tit. 13, §  
2 1968.2, subds. (a), (d)(2.1.1) & (2.2.).)”

3 47. As further alleged herein, HONDA has systemically failed to follow  
4 the foregoing standards. HONDA has engaged in a custom and practice of  
5 completely disregarding its obligations under the CCRs with respect to the  
6 California Emissions Warranty.

7 48. Specifically, Defendant has an obligation under the California  
8 Emissions Warranty to identify all emissions-related vehicle components for  
9 which there should be warranty coverage. As a custom and practice, HONDA has  
10 interpreted this obligation too narrowly, resulting in HONDA wrongfully failing  
11 to identify numerous vehicle components as emissions-related vehicle components  
12 under the California Emissions Warranty, including, but not limited to, head  
13 gaskets.

14 49. The CARB Declaration also clarifies the standard for determining  
15 whether a warranted part is emissions-related. According to CARB, as set forth  
16 above, any vehicle part that causes the MIL to illuminate and/or affects regulated  
17 emissions is an emissions-related part under the California Emissions Warranty  
18 law. This is not the standard that HONDA has been using.

19 50. Based on the CARB Declaration, HONDA is required to provide  
20 coverage for all components whose failure: (1) affects any regulated emission  
21 from a motor vehicle; and (2) can or are required to illuminate the MIL, even if  
22 the primary function of the component is not emissions control. The California  
23 Code of Regulations mandates that the purpose of the MIL is to notify the driver  
24 of defective malfunctions of the OBDII monitored emissions systems of the  
25 vehicle; and/or failures which will cause a vehicle to fail a smog test as mandated  
26 by the California Health and Safety Code.

27 51. HONDA, as a matter of custom and practice, has failed to identify as  
28 covered components all components which can or are required to illuminate the



1 MIL. Furthermore, HONDA fails to identify all components whose failure affects  
2 a regulated emission.

3 52. HONDA has the ability to determine what component failures result  
4 in the MIL illuminating. Furthermore, California Code of Regulations Section  
5 1968.2 specifically mandates that the MIL should not illuminate unless there is an  
6 emissions-related defect, and the regulations mandate that if a component's failure  
7 can or does cause the MIL to illuminate, coverage under the California Emissions  
8 Warranty follows. Yet, HONDA does not provide the required coverage.

9 **HEAD GASKETS ARE EMISSIONS-RELATED PARTS**

10 53. On information and belief, HONDA's own documents, including  
11 HONDA's OBDII summaries which identify OBDII fault codes and correlating  
12 vehicle components which could cause the OBDII fault code to manifest,  
13 submitted to CARB as part of the vehicle certification process, identify the  
14 specific fault codes relating to head gaskets that directly correlate with increased  
15 emissions and confirm an emissions-related defect. Also, as confirmed by the  
16 HONDA's OBDII summaries, these fault codes cause the OBDII MIL to be  
17 illuminated. The fault codes identified in HONDA's OBDII summaries confirm  
18 which defective parts will give rise to the OBDII fault codes.

19 54. As explained above, all of the Class Vehicles are equipped with an  
20 OBDII onboard diagnostic system. The system uses sensors to gather data which  
21 is evaluated using OBDII fault code logic. If the OBDII logic determines that the  
22 data is outside of an acceptable range, a fault code is triggered, identifying a defect  
23 which increases regulated emissions. When HONDA seeks certification of  
24 vehicles for distribution in California, HONDA is required, pursuant to 13 CCR  
25 1968.2, to provide CARB with all of HONDA's OBDII fault codes and the  
26 corresponding logic. Accordingly, when a part that is, or should be, covered under  
27 the California Emissions Warranty fails, triggering an OBDII fault code, it fails to  
28 perform as described in the vehicle's application for certification. Upon

1 information and belief, these fault codes are submitted to CARB by HONDA as  
2 “OBD2 Summary Tables”. HONDA submitted OBD2 Summary Tables or similar  
3 documents to CARB for every Class Vehicle and for every model year that the  
4 vehicles were certified for sale in California and that are at issue in this case.

5 55. The OBD2 Summary Tables identify the Components/Systems  
6 monitored by OBDII, the acceptable ranges relating to the data gathered, the  
7 corresponding emissions fault codes and that the MIL will be triggered when a  
8 defect is identified. The purpose of the OBDII system, as confirmed in the CCR, is  
9 specifically to monitor emissions-related components. This is why HONDA is  
10 required to develop a compliant OBDII system which identifies emissions-related  
11 defects, triggering a fault code and a MIL. The fault codes are used to assist  
12 technicians in repairing the vehicles, whereas the MIL is used to alert the driver of  
13 a defect. This means that every defect that triggers the emissions fault codes  
14 identified by HONDA in the OBD2 Summary Tables and the MIL is, by  
15 definition, an emissions-related defect. The OBD2 Summary Tables, among other  
16 documents, identify the parts that have not already been identified as emissions-  
17 related parts by HONDA in its warranty books but which, when defective, can or  
18 do trigger an emissions fault code and result in illumination of the MIL.

19 56. Therefore, HONDA is required to cover under the California  
20 Emissions Warranty any defect that triggers a fault code identified by HONDA in  
21 its OBD2 Summary Tables submitted to CARB or that should properly be  
22 identified on the OBD2 Summary Tables, because such a defect affects regulated  
23 emissions.

24 57. A defect in the head gaskets that triggers emissions fault codes in the  
25 OBDII system and identified on the OBD2 Summary Tables will also cause the  
26 MIL to illuminate.

27 58. The foregoing framework and analysis addresses and precludes any  
28 potential “slippery slope” argument or concern that every vehicle part could

1 potentially be “emissions-related.” This litigation is not dependent on the assertion  
2 that “emissions-related parts” are defined as every part in the OBDII system.  
3 Rather, this litigation asserts that there should be California Emissions Warranty  
4 coverage, at the very least, for the parts, components, or systems whose defects  
5 trigger fault codes identified on the OBD2 Summary Tables and cause the MIL to  
6 be illuminated. This includes head gaskets installed on Class Vehicles. This is  
7 because said parts undeniably are “emissions-related” and fail in a manner that  
8 increases regulated emissions.

9         59. HONDA knows which fault codes these are because HONDA is  
10 required to provide to CARB all the fault codes that trigger a MIL and the specific  
11 emissions-related conditions that trigger the fault codes as set forth in the OBD2  
12 Summary Tables. Further, as confirmed in the CARB Declaration, emissions-  
13 related parts include any components that “can” or are required to illuminate the  
14 MIL in the event of a malfunction, even if the primary function of the component  
15 is not emissions control.

### 16                                 **“Appendix B” Parts**

17         60. Similar to 13 CCR section 2035, 13 CCR Section 2601(i) states that  
18 an “‘Emissions-related part’ means any vehicle part which affects any regulated  
19 emissions from a vehicle that is subject to California or federal emissions  
20 standards and includes, but is not limited to, those parts specified in the  
21 ‘Emissions-Related Parts List,’ adopted by the State Board on November 4, 1977,  
22 as last amended June 1, 1990.”

23         61. Similarly, 13 CCR Section 1900(b)(3) states that “‘Emissions-related  
24 part’ means any automotive part, which affects any regulated emissions from a  
25 motor vehicle which is subject to California or federal emission standards. This  
26 includes, at a minimum, those parts specified in the ‘Emissions-Related Parts  
27 List,’ adopted by the State Board on November 4, 1977, as last amended June 1,  
28 1990.”

62. The “Emissions-Related Parts List” is contained at 13 CCR Appendix B which states that “The following list of components are examples of emission related parts as defined in Section 1900(b)(3), Chapter 3, Title 13, California Code of Regulations.” Emphasis added. Therefore, HONDA is required to cover as “emissions-related” parts under the California Emissions Warranty (in addition to the MultiAir Actuator), any vehicle part specifically identified on Appendix B. As confirmed in the CARB Declaration, in Appendix B, and in the Regulations, “emissions-related parts” are not limited to the emissions control system only.

63. Head gaskets should be covered under the California Emissions Warranty because this part affects regulated emissions as alleged herein, and because *cylinder heads are explicitly identified as emissions-related parts on Appendix B*. The cylinder head gasket is an integral component of of the cylinder head assembly.

#### PLAINTIFF’S CLASS ACTION ALLEGATIONS

64. Plaintiff re-alleges and incorporates by reference each allegation set forth above.

65. Plaintiff brings this action on his own behalf, as well as on behalf of all Class members similarly situated, pursuant to Federal Rules of Civil Procedure Rules 23(a), (b)(1), (2) and/or (3) and/or (c)(4).

66. Plaintiff reserves the right to redefine the Class and Subclasses and to add subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

67. HONDA’s California Emission Warranty applies to vehicles purchased and registered in States which, in the year the vehicle was distributed, had adopted the California Emissions Warranty, i.e., “Reg. 177 States” or “Section 177 States”.

68. Defendant’s emissions warranty representations arise out of California law that Defendant must apply outside of California to the vehicles in

1 the States listed. Accordingly, Defendant's conduct was specifically intended to  
2 have effects outside of California and was specifically intended to apply to  
3 vehicles and members of the Classes in those States that Defendant chose to  
4 include by the express terms of the California Emissions Warranty.

5 69. Under these unique circumstances, California has a specific interest  
6 in regulating conduct outside of California that specifically invokes California  
7 emissions requirements and California emissions regulations and has an interest in  
8 preventing illegal practices that involve breach of California Emissions Warranty  
9 law that Defendant has chosen to invoke outside of California in the States  
10 covered by the Reg. 177 Class and Subclass. As Defendant seeks to apply the  
11 California Emission System Warranty to members of the Classes and vehicles in  
12 the listed States outside of California, members of the Classes in those States  
13 likewise should be included in a claim that seeks to vindicate their rights under  
14 that same warranty in California and should have the ability to have their rights  
15 under that warranty asserted in California and pursuant to California law.

16 70. HONDA's own express application of the California Emissions  
17 Warranty constitutes a sufficient connection between California and out-of-state  
18 potential Class members. Further, HONDA's misconduct, namely, its failure to  
19 identify all emissions-related warranted parts to CARB, a California regulator,  
20 occurred in California, and even out-of-state purchasers were harmed by  
21 HONDA's conduct that occurred in California. HONDA failed to disclose, in its  
22 submissions to CARB, the parts that are properly covered by the California  
23 Emissions Warranty, including, but not limited to, head gaskets.

24 71. As alleged herein, HONDA is solely responsible for selecting and  
25 identifying to CARB all of the parts that should be classified as emissions  
26 warranted parts, and HONDA failed to include head gaskets and other  
27 components. Californians and out-of-state potential Class members in the  
28 additional States covered by the California Emissions Warranty suffered an

1 identical harm – they were forced to pay the costs of head gaskets diagnosis,  
2 repair, or replacement, which should have been covered under the California  
3 Emissions Warranty, and were provided with warranties which were less valuable  
4 than the warranties they were legally entitled to at the time they purchased or  
5 leased their Class Vehicle. Under these unique circumstances, California has the  
6 greater interest in applying California’s consumer laws to enforce compliance with  
7 the California Emissions Warranty than the other States have in using their  
8 consumer laws to enforce the same Regulation. California has a specific interest in  
9 regulating conduct outside of California that specifically invokes California  
10 emissions requirements and regulations, and California has an interest in  
11 preventing illegal practices that involve breach of California emissions law that  
12 Defendant has chosen to invoke outside of California in the specific States  
13 covered. California also has a supreme interest in applying its own consumer  
14 protection laws in ensuring that the California Emissions Warranty is properly  
15 interpreted and applied wherever HONDA has chosen to invoke it.

16 72. Under the facts of this specific case, the law of California should be  
17 applied because California’s interest would be more impaired if its consumer laws  
18 to enforce the California Emissions Warranty were subordinated to consumer laws  
19 of the other States to which HONDA has chosen to apply the requirements of the  
20 California Emissions Warranty. Other jurisdictions’ interests in applying their own  
21 consumer protection laws to their own residents do not strongly outweigh the  
22 interest California has in applying its consumer protection laws to enforce the  
23 California Emission Warranty with respect to the specific potential out-of-state  
24 members of the Classes identified herein. Therefore, the Classes alleged herein  
25 include persons who purchased or leased Class Vehicles that are registered in  
26 States other than California.

27 73. There is sufficient similarity among all the Class Vehicles and  
28 HONDA’s conduct as defined herein in that, among other things, all of the

1 vehicles in the proposed Classes are subject to the same California Emissions  
2 Warranty and the same requirements that HONDA report all emissions-related  
3 defects to CARB pursuant to the CCR. HONDA has acted in a uniform manner  
4 with respect to all Class Vehicles by failing to properly cover head gaskets in the  
5 Class Vehicles as required under the California Emissions Warranty and as  
6 described herein.

7 74. Accordingly, Plaintiff's proposed Class and Subclasses consist of and  
8 are defined as follows:

9 California Class and Subclass:

10 All persons in the State of California who have been  
11 owners or lessees of Class Vehicles and whose head  
12 gaskets are not covered for 15-years or 150,000 mile (the  
"California Class").

13 All persons in the State of California who have been  
14 owners or lessees of Class Vehicles and who have paid  
15 for repairs and parts pertaining to head gaskets which  
16 occurred prior to 15-years or 150,000 mile (the  
"California Out-of-Pocket Subclass").

17 Reg. 177 Class and Subclass:

18 All persons who have been owners or lessees of Class  
19 Vehicles in a State which, in the year their vehicle was  
20 distributed, had adopted the California Emissions  
21 Warranty (i.e., "Reg. 177 States" or "Section 177 States")  
who have been owners or lessees of Class Vehicles and  
whose head gaskets are not covered for 15-years or  
150,000 mile (the "Reg. 177 Class").

22 All persons who have been owners or lessees of Class  
23 Vehicles in a State which, in the year their vehicle was  
24 distributed, had adopted the California Emissions  
25 Warranty (i.e., "Reg. 177 States" or "Section 177 States")  
26 who have been owners or lessees of Class Vehicles and  
27 who have paid for repairs and parts pertaining to head  
28 gaskets which occurred prior to 15-years or 150,000 mile  
(the "Reg. 177 Out-of-Pocket Subclass").

Excluded from the Classes and Subclasses are Defendant,  
and its subsidiaries and affiliates; its current and former



1 officers, directors, and employees (and members of their  
2 immediate families); and the legal representatives, heirs,  
3 successors or assigns of any of the foregoing. Also  
4 excluded are any judge, justice, or judicial officer  
presiding over this matter and the members of their  
immediate families and judicial staff.

5 75. Plaintiff's primary goal on behalf of the Classes is to obtain  
6 injunctive relief requiring HONDA to comply with the California Emissions  
7 Warranty and declaratory relief with respect to the proper interpretation of the  
8 California Emissions Warranty and HONDA's obligations pursuant to the CCRs  
9 and the California Emissions Warranty. Plaintiff's claim for monetary relief is  
10 secondary to his claim for injunctive or declaratory relief. Even in the absence of  
11 possible monetary recovery, Plaintiff would bring this action to obtain the  
12 injunctive and declaratory relief sought. Any monetary relief that would flow to  
13 the members of the Classes would be ancillary to the injunctive or declaratory  
14 relief obtained.

15 76. On behalf of the members of the Classes, Plaintiff seeks declaratory  
16 judgment/relief pursuant to 28 U.S.C. section 2201 et seq as to, *inter alia*, (1) that  
17 the head gaskets in the Class Vehicles is an 'emissions-related part'; (2) that  
18 HONDA has used, and continues to use, the wrong or incorrect standards for  
19 identifying "emission-related" parts under the California Emissions Warranty; (3)  
20 that HONDA failed and is failing to properly identify and warrant under the  
21 California Emissions Warranty all of the parts, components or systems in addition  
22 to the head gaskets, that should have been properly covered for emissions-related  
23 defects as identified, *inter alia*, per the fault codes on the Class Vehicles OBD2  
24 Summaries described herein, per Appendix B to the CARB regulations; and/or, (4)  
25 that Plaintiff and members of the Classes are entitled to warranty coverage under  
26 the California Emissions Warranty for head gaskets in Class Vehicles.

27 77. On behalf of the members of the Classes, Plaintiff seeks  
28 reimbursement or restitution for the out of pocket expenses, including diagnostic

1 fees for amounts wrongfully paid by Plaintiff and members of the Classes relating  
2 to head gasket repairs that should have been covered by the HONDA's California  
3 Emissions Warranty during the Class periods. Plaintiff's claim for restitution is  
4 distinct from his claim for damages. The damages claim seeks, inter alia, the  
5 diminished value of a California Emissions Warranty that does not cover head  
6 gaskets, which should have been included in the California Emissions Warranty.  
7 Moreover, Plaintiff does not seek the same sum in restitution as he seeks in  
8 damages, and the two remedies do not compensate for the same harm. The  
9 restitutionary remedy, which seeks out of pocket reimbursement, will not  
10 compensate Plaintiff and members of the Classes for damages incurred due to the  
11 Class Vehicles having a California Emissions Warranty that has less value  
12 because the Warranty does not properly cover head gaskets and will not  
13 compensate for the excess amounts and profits that HONDA pocketed due to its  
14 misconduct and in being able to avoid paying warranty claims that should have  
15 been covered under the California Emissions Warranty.

16 78. Further, the harm suffered by Plaintiff and members of the Classes  
17 and perpetrated by HONDA, is not adequately compensable with damages. The  
18 entire purpose of the California Emissions Warranty is to protect the environment.  
19 The California Emissions Warranty was enacted by the State of California to  
20 restrict harmful greenhouse gas from gasoline and hybrid gasoline engines. The  
21 fundamental purpose of the emissions requirements is to reduce emissions, limit  
22 fuel consumption and increase fuel efficiency, by forcing manufacturers to repair  
23 and/or replace failed emissions-related vehicle components under warranty,  
24 thereby decreasing greenhouse gas emissions, including carbon dioxide emissions.

25 79. Indeed, motor vehicle use is the single greatest source of U.S. air  
26 pollution and is the cause of more air pollution than any other human activity.  
27 (Cars, Fuels, and Clean Air: A Review of Title II of the Clean Air Act  
28 Amendments of 1990 (1991) 21 Env'tl. L. 1947, 1949). Many of these pollutants

1 consist of hydrocarbons and nitrous oxides which react to form photochemical  
2 oxidants in the atmosphere. The most notorious of these photochemical oxidants is  
3 ozone – the primary component of urban smog. (California Air Resources Bd.,  
4 Staff Report: Proposed Regulations for Low-Emission Vehicles and Clean Fuels  
5 (Aug. 13, 1990) at p. 3). Cars also produce nearly two-thirds of all carbon dioxide  
6 emissions. Carbon dioxide content in the atmosphere is closely linked to global  
7 temperature because the temperature of the Earth is primarily determined by the  
8 balance between its absorption of energy from the Sun, and the reflection of a  
9 portion of this energy back into space. Carbon dioxide – a greenhouse gas – traps  
10 the energy and heat which would have otherwise escaped back into space, and re-  
11 emits it, causing the warming of our atmosphere. This process is known as the  
12 “greenhouse effect.”

13 80. Therefore, the State of California highly regulates emissions from  
14 gasoline and hybrid gasoline engines, specifically greenhouse gas emissions. In  
15 September 1990, pursuant to its broad authority to regulate and reduce  
16 environmentally harmful vehicle emissions under Health and Safety Code §§  
17 43013(a) and 43205, CARB submitted, and the Legislature adopted, California  
18 Code of Regulation §§ 2035, et seq., which requires all manufacturers to provide a  
19 statutorily compliant emissions warranty to all vehicles distributed and registered  
20 in California.

21 81. In September 2004, CARB approved the “Pavley” Greenhouse Gas  
22 Regulations to control greenhouse gas emissions from new LEV II vehicles  
23 beginning with the 2009 model year. These Greenhouse Gas Regulations added  
24 four greenhouse gas air contaminants to the vehicular criteria and toxic air  
25 contaminant emissions that California was already carbon dioxide (CO<sub>2</sub>), methane  
26 (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), and hydrofluorocarbons (air conditioner refrigerants).  
27 The State and federal government have specifically focused on regulating  
28 greenhouse gas emissions, including carbon dioxide emissions. If a gas vehicle

1 has a defect which increases fuel consumption, that defect increases carbon  
2 dioxide emissions.

3 82. Notwithstanding State and federal regulations designed to protect our  
4 air, monitoring shows that over 90 percent of Californians breathe unhealthy  
5 levels of one or more air pollutants during some part of the year. Despite CARB's  
6 best efforts, in 2020, "there were 157 bad air days for ozone pollution—the  
7 invisible, lung-searing gas in smog—across the vast, coast-to-mountains basin  
8 spanning Los Angeles, San Benito, Riverside and San Bernardino counties. That's  
9 the most days above the federal health standard since 1997." (Barboza, Tony  
10 (Dec. 6, 2020) L.A. Began 2020 With A Clean-Air Streak but Ended with Its  
11 Worst Smog in Decades, Los Angeles Times  
12 [[https://www.latimes.com/42alifornia/story/2020-12-06/2020-laair-quality-](https://www.latimes.com/42alifornia/story/2020-12-06/2020-laair-quality-southern-california-pollution-analysis)  
13 [southern-california-pollution-analysis](https://www.latimes.com/42alifornia/story/2020-12-06/2020-laair-quality-southern-california-pollution-analysis)].) One of the reasons that our environment  
14 is in such a state of crisis is that corporations are not following our very  
15 thoroughly formulated rules.

16 83. Accordingly, damages are inadequate to compensate for the  
17 foregoing harms caused by HONDA's violation, and continuing violation, of the  
18 California Emissions Warranty. Money damages will not fix the harm caused by  
19 Defendant's violation of emissions laws, which requires equitable relief.

20 84. Further, HONDA and car manufacturers should not be able to shirk  
21 their legal responsibilities simply by paying damages. Simply paying off  
22 consumers undermines the entire purpose of the California Emissions Warranty  
23 and will leave HONDA in the position of being able to continue to violate the law  
24 and increase harmful vehicle emissions by just paying damages. Ironically, this  
25 result will leave Plaintiff and members of the Classes in an even worse position  
26 than by simply receiving monetary compensation alone.

1           85. Moreover, payment of damages does not ensure that the emissions  
2 parts will actually be repaired. That result will only be ensured by forcing  
3 HONDA to cover the repair under the California Emissions Warranty as required.

4           86. Further, equitable relief is required because damages alone will not  
5 be sufficient for Class members to identify all parts whose defects result in fault  
6 codes identified in the OBD2 Summaries being triggered. Only HONDA has done  
7 the analysis and knows the fault code logic that would allow for identification of  
8 all required fault codes to CARB and all parts that give rise to those fault codes so  
9 that those parts can be identified and properly covered under the California  
10 Emissions Warranty. In effect, Plaintiff's request for equitable relief is the only  
11 way to get HONDA to do what it is required to do.

12           87. There are common questions of law and fact as to members of the  
13 Class and Subclasses that predominate over questions affecting only individual  
14 members, including, but not limited to:

- 15           (a) Whether HONDA has failed and is failing to acknowledge that the  
16 head gaskets installed in the Class Vehicles should be covered under  
17 the 15-year, 150,000-mile California Emissions Warranty, pursuant  
18 to California law;
- 19           (b) Whether HONDAs failure to comply with the California Emissions  
20 Warranty by failing to provide a 15-year, 150,000-mile California  
21 Emissions Warranty for the head gaskets installed in the Class  
22 Vehicles damaged Class members when they purchased or leased a  
23 Class Vehicle with a less valuable warranty than they were entitled  
24 to;
- 25           (c) Whether HONDA has engaged in and is engaging in a systematic  
26 business practice of failing to identify that the head gaskets installed  
27 in the Class Vehicles should be covered under the 15-year, 150,000-  
28 mile California Emissions Warranty, pursuant to California law;

- 1 (d) Whether HONDA's conduct is an unlawful and unfair business  
2 practice in violation of California Business & Professions Code  
3 section 17200, *et seq.*;
- 4 (e) Whether HONDA's conduct Violates the Consumer Legal Remedies  
5 Act, California Civil Code Section 1750, *et seq.*;
- 6 (f) Whether Plaintiff and Class members are entitled to declaratory and  
7 injunctive relief regarding HONDA's failure to identify that the head  
8 gaskets installed in the Class Vehicles should be covered under the  
9 15-year, 150,000-mile California Emissions Warranty, pursuant to  
10 California law;
- 11 (g) The appropriate remedy for HONDA's violations of California law.
- 12 88. There is a well-defined community of interest in the litigation and the

13 Class members are readily ascertainable:

- 14 (a) Numerosity: The Class members are so numerous that joinder of all  
15 Class members would be unfeasible and impractical. The  
16 membership of the entire Class is unknown to Plaintiff at this time;  
17 however, the Class is estimated to be greater than one hundred (100)  
18 individuals and the identity of such membership is readily  
19 ascertainable by inspection of Defendant's records.
- 20 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately  
21 protect the interests of each Class member with whom he has a well-  
22 defined community of interest, and Plaintiff's claims (or defenses, if  
23 any) are typical of all Class members as demonstrated herein.
- 24 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately  
25 protect the interests of each Class member with whom he has a well-  
26 defined community of interest and typicality of claims, as  
27 demonstrated herein. Plaintiff acknowledges that he has an obligation  
28 to make known to the Court any relationship, conflicts or differences

with any Class member. Plaintiff's attorneys, the proposed Class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class member.

- (d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

### **TOLLING OF THE STATUTE OF LIMITATIONS**

89. HONDA has engaged in misleading and dishonest conduct relating to its failure to identify all of the parts, including head gaskets, that should be covered pursuant to the California Code of Regulations regarding the California Emissions Warranty. Despite acting diligently, Plaintiff and Class members lacked the resources and had no realistic ability to identify the specific parts that should have been covered. Plaintiff and Class members cannot be reasonably expected on their own to learn or discover what parts should be covered under the California Emissions Warranty. Therefore, the discovery rule is applicable to the claims asserted by Plaintiff and Class members, and the statute of limitations for bringing the claims set forth herein should be tolled.

90. HONDA has actual and constructive knowledge that it is violating California law by failing to identify all of the parts that should be covered under the California Emissions Warranty. HONDA has concealed from Plaintiff and Class members that HONDA is violating California law as set forth herein. Any



1 applicable statute of limitation is tolled by HONDA's wrongful conduct set forth  
 2 herein, and HONDA is estopped from relying on any statute of limitation because  
 3 of its conduct as set forth herein.

#### 4 **FIRST CAUSE OF ACTION**

##### 5 **Violation of California Unfair Competition Law**

6 **(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**

##### 7 **By Plaintiff, the California Class, and the Reg. 177 Class Against Defendant**

8 91. Plaintiff re-alleges and incorporates by reference each allegation set  
 9 forth above.

10 92. California Business and Professions Code section 17200, *et seq.* (the  
 11 "UCL") prohibits "any unlawful, unfair or fraudulent business act or practice."  
 12 HONDA has committed acts of unfair competition proscribed by the UCL,  
 13 including the acts and practices alleged herein.

14 93. The UCL imposes strict liability. Plaintiff need not prove that  
 15 HONDA intentionally or negligently engaged in unlawful or unfair business  
 16 practices – only that such practices occurred.

17 94. HONDA is a "person" as defined by Business & Professions Code §  
 18 17201.

19 95. As a direct and proximate result of HONDA's acts and practices in  
 20 violation of the UCL, Plaintiff and members of the California Class and the Reg.  
 21 177 Class have suffered injury in fact and lost money or property as set forth  
 22 above and will continue to do so.

#### 23 **Unlawful Prong**

24 96. A business practice is "unlawful" under the UCL if it is forbidden by  
 25 law or regulations, including the standard of professional conduct.

26 97. The violation of any law or regulation may serve as the predicate for  
 27 a violation of the "unlawful" prong of the UCL.  
 28

98. HONDA's conduct is unlawful because it violates the California Code of Regulations, including the requirement under the California Code of Regulations, by failing to provide coverage under the California Emissions Warranty.

99. HONDA's conduct violates California Code of Regulations section 1900, *et seq.*, because HONDA fails to identify head gaskets as a part that should be covered under the 15-year/150,000-mile California Emissions Warranty.

100. HONDA's conduct is unlawful because it fails on a systemic and class wide basis to provide coverage for head gaskets installed in the Class Vehicles for 15-years or 150,000 mile, as required pursuant to CCR Section 1900, *et seq.*

**101.** HONDA's acts of unlawful competition as set forth above present a continuing threat and will persist and continue to do so unless and until this Court issues appropriate injunctive relief. Plaintiff also seeks attorneys' fees and costs pursuant to, *inter alia*, C.C.P. § 1021.5.

## Unfair Prong

102. An act or practice is unfair if the consumer injury is substantial, is not outweighed by any countervailing benefits to consumers or to competition, and is not an injury the consumers themselves could reasonably have avoided. An act or practice also is unfair if it offends an established public policy or is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers. An act or practice also is unfair if Plaintiff's claims are "tethered" to specific constitutional, statutory, or regulatory provisions. HONDA's conduct violates all of these definitions.

103. As alleged above, HONDA engages and has engaged in a systematic business practice of failing to identify for consumers and its factory authorized repair facilities that the head gaskets installed in the Class Vehicles are covered by the California Emissions Warranty. HONDA does this in an effort to reduce the

1 amount of money that HONDA spends on warranty-related repairs knowing that it  
2 would be very difficult if not impossible for most consumers to discover this  
3 unlawful conduct. If HONDA complied with California law and properly  
4 identified that the head gaskets installed in the Class Vehicles should be identified  
5 as covered under the 15-years, 150,000 mile California Emissions Warranty, then  
6 HONDA dealerships would properly provide warranty coverage for said parts.

7 104. Further, HONDA's conduct is unfair because it refuses to provide  
8 warranty coverage for head gaskets installed in the Class Vehicles pursuant to the  
9 California Emissions Warranty for 15-years or 150,000 mile for the sole purpose  
10 of wrongfully limiting its warranty claims, with no regard for the fact that the  
11 public is being forced to pay for repairs which should be covered under the 15-  
12 year 150,000-mile California Emissions Warranty, or that the public is being  
13 provided with a warranty that is less valuable than the warranty they are legally  
14 entitled to at the time of purchase or lease of their Class Vehicle. Plaintiff and  
15 members of the Class have wrongfully been denied warranty coverage at service  
16 centers throughout California and have suffered injury in fact and a loss of money  
17 or property as a result of HONDA's unfair business acts and practices as set forth  
18 in detail.

19 105. HONDA's failure to properly identify that head gaskets installed in  
20 Class Vehicles should have been covered under the 15-year, 150,000-mile  
21 California Emissions Warranty is a uniform and systematic statewide business  
22 practice on the part of HONDA to minimize the amount of money that HONDA  
23 has to pay out in warranty claims. This conduct violates California law.

24 106. All of the acts and practices of HONDA as described in this  
25 complaint constitute "unfair" business acts and practices. A business act or  
26 practice is "unfair" under the UCL if the reasons, justifications, and motives of the  
27 alleged wrongdoer are outweighed by the gravity of the harm to the alleged  
28 victims. Plaintiff has suffered injury in fact and a loss of money or property as a

1 result of HONDA's unfair business acts and practices as set forth herein in detail.  
2 It is Plaintiff's information and belief that Class members have also suffered  
3 injury as a result of HONDA's wrongful conduct.

4 107. As a direct and proximate result of HONDA's acts and practices in  
5 violation of the UCL, Plaintiff and members of the Class have paid out of pocket  
6 to repair or replace emissions components that should have been covered by  
7 HONDA under the 15-year 150,000-mile California Emissions Warranty. Forcing  
8 consumers to pay out of pocket to repair or replace vehicle components that  
9 should be covered under warranty is clearly unfair.

10 108. As a direct and proximate result of HONDA's acts and practices in  
11 violation of the UCL, Plaintiff and members of the Class have purchased or leased  
12 Class Vehicles which provided inadequate, truncated, and less valuable warranty  
13 coverage to the head gaskets than they were legally entitled to, as alleged herein.  
14 Failing to provide customers with California Emissions Warranty coverage for  
15 fuel injector defects in Class Vehicles which increase regulated emissions, in  
16 violation of the CCR, is clearly unfair.

17 109. HONDA's conduct does not benefit consumers or competition.  
18 Plaintiff and Class members could not reasonably avoid the injury each of them  
19 suffered or will suffer, which injury is substantial. HONDA's conduct only  
20 benefits HONDA, by enabling HONDA to avoid having to pay warranty claims  
21 for defective head gaskets in Class Vehicles which should be covered by the 15-  
22 year 150,000-mile California Emissions Warranty.

23 110. The gravity of the consequences of HONDA's conduct as described  
24 above outweighs the justification, motive, or reason and therefore, is immoral,  
25 unethical, and unscrupulous, and offends established public policy that is tethered  
26 to legislatively declared policies as set forth in the laws detailed above, or is  
27 substantially injurious to the public, for the reasons set forth above.  
28



1 HONDA has refused, and continues to refuse to honor the terms of the CCR, as  
2 stated herein.

3 116. Plaintiff is a consumer who was wrongfully required to pay for  
4 repairs which should have been paid for by HONDA pursuant to the CCR. The  
5 Vehicle was presented by Plaintiff for repairs at HONDA authorized repair  
6 facilities, in compliance with the terms and conditions of the HONDA warranty.  
7 The Vehicle required repairs which should have been covered pursuant to the  
8 CCR, based upon the Vehicle's mileage and age. HONDA wrongfully failed and  
9 refused to pay for the warranty repairs due to the unlawful pattern and practice set  
10 forth herein. Thus, Plaintiff suffered damage.

11 117. HONDA knows that it is violating the terms of the CCR, however  
12 HONDA intentionally violates the CCR in order to save money. Plaintiff and  
13 members of the Classes are generally unaware of the terms and scope of the CCR,  
14 thus HONDA is able to get away with said wrongful conduct. As a result, Plaintiff  
15 and members of the Classes have suffered damage. HONDA engages in a  
16 systemic pattern of denying warranty claims under the CCR by failing to properly  
17 identify and provide coverage for all parts that should be covered under the  
18 California Emissions

19 118. Plaintiff and members of the Classes have presented Class Vehicles  
20 to HONDA authorized repair facilities for repairs that should have been covered  
21 under the California Emissions Warranty, but coverage has been wrongfully  
22 denied to them. As a result, Plaintiff and members of the Classes have thus  
23 suffered damage. Plaintiff brings this claim on behalf of Plaintiff and members of  
24 the Classes.

25 119. HONDA's conduct in warranting, advertising, leasing, selling and  
26 distributing Class Vehicles in the State of California, while at the same time  
27 knowingly and wrongfully failing to honor the terms of the California Emissions  
28 Warranty, constitutes the following violations of Section 1770:

- 1 (a) HONDA represents and has represented that Class Vehicles  
 2 sold and leased have characteristics or benefits which they did  
 3 not have (in violation of Section 1770(a)(5));
- 4 (b) HONDA has falsely represented that Class Vehicles sold and  
 5 leased were of a particular standard, quality, or grade when  
 6 they were of another (in violation of Section 1770(a)(7)); and,
- 7 (c) HONDA advertised Class Vehicles that have been sold and  
 8 leased with the intent not to sell them as advertised (in  
 9 violation of Section 1770(a)(9)).

10 120. Civil Code section 1780(a) provides that any consumer who suffers  
 11 damage as a result of a violation of the Consumer Legal Remedies Act may bring  
 12 an action to recover: 1) actual damages, but in no case shall the total award of  
 13 damages in a class action be less than \$1,000; 2) an order enjoining the methods,  
 14 acts, or practices; 3) restitution of property; 4) punitive damages; and 5) any other  
 15 relief that the court deems proper.

16 121. Civil Code section 1781 provides that Plaintiff may pursue this case  
 17 as a class action.

18 122. Plaintiff requests injunctive relief pursuant to Civil Code 1782(d).

19 123. Plaintiff is entitled to attorney fees pursuant to Civil Code section  
 20 1780(e).

### 21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, on behalf of himself and all others similarly  
 23 situated, prays for relief and judgment against HONDA as follows:

24 (a) An order certifying the proposed Classes, designating Plaintiff as  
 25 named representative of the Classes, and designating the Plaintiff's Counsel as  
 26 Class Counsel;

27 (b) A declaration that HONDA is financially responsible for notifying all  
 28 members of the Classes about the wrongful conduct set forth herein; that



1 HONDA's conduct as alleged herein violates the California Emissions Warranty  
2 including, without limitation, that HONDA has used, and continues to use, the  
3 wrong or incorrect standards for identifying which parts should be covered under  
4 the California Emissions Warranty; that HONDA failed and is failing to properly  
5 identify and warrant under the California Emissions Warranty all of the parts,  
6 components or systems as defined and limited that should have been properly  
7 covered for "emissions-related" defects as identified, *inter alia*, per the fault codes  
8 on the Class Vehicles OBD2 Summaries described herein, per Appendix B of the  
9 CARB regulations; and/or that Plaintiff and the members of the Classes are  
10 entitled to warranty coverage under the California Emissions Warranty for head  
11 gaskets in Class Vehicles.

12 (c) An order requiring HONDA to, *inter alia*, (1) review its warranty  
13 books for all Class Vehicles and properly identify and warrant all "emissions-  
14 related parts"; (2) on a going forward basis, use the proper standard for  
15 determining whether a part is "emissions-related" under the California Emissions  
16 Warranty; (3) otherwise accurately and comprehensively apply the California  
17 Emissions Warranty in order to properly identify all parts as defined and limited  
18 herein that should be covered under the California Emissions Warranty; and (4)  
19 enjoin HONDA from further deceptive distribution, sales, and lease practices, and  
20 to reimburse both Plaintiff and members of the Classes for the money wrongfully  
21 paid by Plaintiff and members of the Classes relating to repairs which should have  
22 been covered by HONDA under the California Emissions Warranty.

23 (d) That the Court declare, adjudge, and decree that HONDA's failure to  
24 identify and warrant head gaskets in Class Vehicles pursuant to the California  
25 Emissions Warranty constitutes an unfair and unlawful business practice in  
26 violation of California Business and Professions, Civil Code sections 17200, *et*  
27 *seq.*;

28 (e) That the Court declare, adjudge, and decree that HONDA's failure to

1 identify and warrant head gaskets in Class Vehicles pursuant to the California  
2 Emissions Warranty violated the Consumer Legal Remedies Act as codified in  
3 California Civil Code sections 1750, *et seq.*

4 (f) For declaratory relief pursuant to 28 U.S.C. section 2201 that  
5 HONDA is in violation of, and must comply with, the California Emissions  
6 Warranty, namely, that HONDA, *inter alia*, identify and cover the head gaskets  
7 and other components in Class Vehicles under the California Emissions Warranty;

8 (g) An award to Plaintiff and members of the Classes of any repair costs  
9 they are owed, reimbursement for all out-of-pocket expenses, including diagnostic  
10 costs, that HONDA owners and lessees wrongly paid for head gasket repairs that  
11 should properly have been covered by HONDA under the California Emissions  
12 Warranty and other amounts to which they may be legally entitled;

13 (h) An award to Plaintiff and members of the Classes of damages in an  
14 amount to be proven at trial, including disgorgement, for the benefit of the  
15 Classes, all or part of the ill-gotten profits it received as a result of the wrongful  
16 conduct set forth herein;

17 (i) An award of attorneys' fees and costs as allowed by law and/or  
18 pursuant to California Code of Civil Procedure § 1021.5;

19 (j) An award of pre-judgment and post-judgment interest;

20 (k) Leave to amend the Complaint to conform to the evidence produced  
21 at trial; and,

22 (l) Other relief as may be appropriate under the circumstances.

23  
24 Dated: November 4, 2022

Respectfully submitted,

25 **THE LAW OFFICE OF ROBERT STARR**  
26 **FRONTIER LAW CENTER**  
27  
28

By: /s/ Robert Starr

Robert L. Starr  
Manny Starr

*Attorneys for Plaintiff*

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial pursuant to Fed. R. Civ. Pro 38.

Date: November 4, 2022

**THE LAW OFFICE OF ROBERT STARR**

/s/ Robert Starr

Attorney for Plaintiff